

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)
) Case No. 1:08-cr-104
v.)
)
AVERY MORRIS) JUDGE COLLIER
) MAGISTRATE JUDGE LEE
)

O R D E R

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the six-count indictment (2) accept Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to distribute and possess with intent to distribute five grams or more of cocaine base in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B); (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One, that is of conspiracy to distribute and possess with intent to distribute five grams or more of cocaine base in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 32]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 32] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

(1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;

(2) Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to distribute and possess with intent to distribute five grams or more of cocaine base in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) is **ACCEPTED**;

(3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of conspiracy to distribute and possess with intent to distribute five grams or more of cocaine base in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B);

(4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and

(4) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **June 18, 2009 at 9:00 a.m.** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE